## REMARKS

Claims 1-16 and 18-39 are pending. Claims 10, 11, 23, 24, 36, and 37 have been amended. Claim 17 has been cancelled. Reconsideration and allowance of the present application based on the following remarks are respectfully requested.

***Claim Rejections Under 35 U.S.C. § 112***

Claims 33-35 were rejected under 35 U.S.C. § 112, second paragraph. Applicants have amended claims 33-35 to correct the informalities identified by the Examiner. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

***Claim Rejections Under 35 U.S.C. § 103***

**A.** Claims 1-8, 10, 12-21, 23, 25, and 26 were rejected under 35 U.S.C. § 102(b) over Sony (TCD-D8 1995). Applicants respectfully traverse this rejection.

Claim 1 recites a device for providing treatment of an auditory system disorder that includes a computer readable medium for storing a treatment signal; an output for outputting the signal for treating the auditory system disorder; and a volume adjusting feature for requiring a patient to reset the volume of the treatment signal at the beginning of each treatment session. As discussed in the specification, requiring a patient to reset the volume of the treatment signal at the beginning of each treatment session may be beneficial since the perceived level of tinnitus may vary between sessions (see, for example, pages 18 and 19 of the specification).

In contrast, Sony merely discloses a digital audio tape-corder. Although the Office Action alleges that the device disclosed by Sony discloses the features of claim 1, there is no such disclosure in Sony. Sony relates to a tape-corder, not to a device for providing treatment of an auditory system disorder. Sony fails to disclose each feature of claim 1 since Sony does not disclose a computer readable medium for storing a treatment signal, an output for outputting the [treatment] signal for treating the auditory system disorder, or a volume adjusting feature for requiring a patient to reset the volume of the treatment signal at the beginning of each treatment session. Additionally, the Office's characterization of Applicants' invention is inaccurate. For example, claim 1 does not recite that the patient may reset the volume at any time, it recites that a patient is required to reset the volume of the treatment signal at the beginning of each treatment session.

The Office is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, (Fed. Cir.

1987) . . . The identical invention must be shown in as complete detail as is contained in the . . . claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, (Fed. Cir. 1989). *See*, M.P.E.P. § 2131. Sony, fails to describe each an every element of claim 1. Accordingly, Applicants respectfully submit that Sony fails to anticipate claim 1.

Claims 2-8, 10, 12, and 13 are believed allowable for at least the reasons presented above with respect to claim 1 by virtue of their dependence upon claim 1. Additionally, claims 2-8, 10, 12, and 13 recite features that are not disclosed by Sony. For example, Sony fails to teach that the treatment signal is a highly dynamic masking signal whose spectral content and intensity varies over time, or that the device includes a compliance monitoring device, or a safety locking function, or a data downloading function for downloading logged information.

Claim 14 recites a device for providing treatment of an auditory system disorder that includes a computer readable medium for storing a treatment signal; an output for outputting the signal for treating the auditory system disorder; and a compliance monitoring device for allowing a patient to monitor how much time the patient has used the device during a fixed time period. As described in the specification, the compliance monitoring device may allow the patient to determine how much time the device had been used, or how much time the device should be used (see, for example, page 19 of the specification).

In contrast, Sony, on page 40, merely describes a tape counter. As discussed in the note on page 40 of Sony, the tape counter the tape counter is not accurate and should not be used as a clock. Furthermore, as previously discussed with regard to claim 1, Sony also fails to disclose the remaining features of claim 14. Therefore, Sony does not teach each and every element of claim 14.

Claims 15-21, 23, 25, and 26 are believed allowable for at least the reasons presented above with respect to claim 14 by virtue of their dependence upon claim 14 and for at least the reasons presented above with respect to claims 1-8, 10, 12, and 13 since claims 15-21, 23, 25, and 26 recite features that are similar to the features of claims 1-8, 10, 12, and 13 discussed above.

Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 1-8, 10, 12-16, 18-21, 23, 25, and 26.

**B.** Claims 27-30 were rejected under 35 U.S.C. § 102(b) over Gooch (U.S. Patent No. 5,403,262). Applicants respectfully traverse this rejection.

Claim 27 recites a device for providing treatment of tinnitus that includes a signal filtering means configured to generate a treatment signal with peaks and troughs by

spectrally modifying at least a portion of an input signal to account for the basic audiometric configuration of a person; an output for outputting the signal for treating the tinnitus; and a volume adjusting feature for requiring a patient to reset the volume of the treatment signal at the beginning of each treatment session.

Gooch relates to a tinnitus masking device but fails to teach the volume adjusting feature recited in claim 27. Specifically, although Gooch teaches a volume control 34 (see, Figure 5), the volume control in Gooch is a standard control. Gooch does not teach that the volume adjusting feature of the device requires a patient to reset the volume of the treatment signal at the beginning of each treatment session, as recited in claim 27. Therefore, Gooch fails to teach the features of claim 27.

Claims 28-30 are believed allowable for at least the reasons presented above with respect to claim 27 by virtue of their dependence upon claim 27. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 27-30.

**C.** Claims 27-29, 31, 32, 37, and 38 were rejected under 35 U.S.C. § 102(b) over Aldeman (U.S. Patent No. 6,041,129). Applicants respectfully traverse this rejection.

Claim 27 recites a device for providing treatment of tinnitus that includes a signal filtering means configured to generate a treatment signal with peaks and troughs by spectrally modifying at least a portion of an input signal to account for the basic audiometric configuration of a person; an output for outputting the signal for treating the tinnitus; and a volume adjusting feature for requiring a patient to reset the volume of the treatment signal at the beginning of each treatment session.

In contrast, Aldeman relates to a hearing aid which fails to teach the volume adjusting feature recited in claim 27. Specifically, although Aldeman teaches a volume control potentiometer 216 (see, Figure 11 and column 14, lines 59-66), the volume control in Aldeman is a standard control. Aldeman does not teach that the volume adjusting feature of the device requires a patient to reset the volume of the treatment signal at the beginning of each treatment session, as recited in claim 27. Therefore, Aldeman fails to teach the features of claim 27.

Claims 28, 29, 31, 32, 37, and 38 are believed allowable for at least the reasons presented above with respect to claim 27 by virtue of their dependence upon claim 27. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 27-29, 31, 32, 37, and 38.

***Claim Rejections Under 35 U.S.C. § 103***

**A.** Claims 1-8, 10, 14-21, and 23 were rejected under 35 U.S.C. § 103(a) over Al-Jassim (1998) in view of Sony. Applicants respectfully traverse this rejection.

Claims 1-8, 10, 14-16, 18-21, and 23 are believed allowable for at least the reasons presented above with respect to the rejections of claim 1 and 14 over Sony and because Al-Jassim does not remedy the deficiencies of Sony discussed above. Specifically, Al-Jassim does not teach or suggest a volume adjusting feature for requiring a patient to reset the volume of the treatment signal at the beginning of each treatment session or a compliance monitoring device for allowing a patient to monitor how much time the patient has used the device during a fixed time period, as recited in claims 1 and 14 respectively. Therefore, no combination of Al-Jassim and Sony teach or suggest the subject matter of claims 1-8, 10, 14-21, and 23.

Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 1-8, 10, 14-16 18-21, and 23.

**B.** Claims 9, 11, and 24 were rejected under 35 U.S.C. § 103(a) over Sony in view of Wolf et al. (U.S. Patent No. 4,254,922). Applicants respectfully traverse this rejection.

Claims 9, 11, and 24 are believed allowable for at least the reasons presented above with respect to claims 1 and 14 by virtue of their dependence upon claims 1 and 14 and because Wolfe does not remedy the deficiencies of Sony discussed above. Specifically, Wolfe relates to a cassette which holds a magnetic tape. The locking mechanism in Wolke is merely a mechanism for preventing relative rotation of the tape reels with respect to one another and with respect to the cassette during transport. It is not even remotely analogous to the locking function for preventing a patient from using the device if the computer readable medium does not contain the patient's treatment signal, as recited in claim 9, for example. Therefore, no combination of these references renders the claimed invention obvious.

Accordingly, Applicants' respectfully request reconsideration and withdrawal of this rejection of claims 9, 11, and 24.

**C.** Claims 27-29, 31, and 32 were rejected under 35 U.S.C. § 103(a) over Zoels et al. (U.S. Patent No. 6,047,074) in view of Rastatter et al. (U.S. Patent No. 5,961,443). Applicants respectfully traverse this rejection.

Claim 27 recites a device for providing treatment of tinnitus that includes a signal filtering means configured to generate a treatment signal with peaks and troughs by spectrally modifying at least a portion of an input signal to account for the basic audiometric

configuration of a person; an output for outputting the signal for treating the tinnitus; and a volume adjusting feature for requiring a patient to reset the volume of the treatment signal at the beginning of each treatment session.

As admitted in the Office Action, on page 7, Zoels fails to teach or suggest the volume adjusting feature recited in claim 27. The Office Action alleges that Rastatter teaches this feature and that the combination of Rastatter with Zoels would render claim 27 obvious. However, the volume adjusting feature 15a in Rastatter is merely a conventional volume control. Rastatter does not teach that the volume adjusting feature of the device requires a patient to reset the volume of the treatment signal at the beginning of each treatment session, as recited in claim 27. Therefore, Rastatter fails to teach or suggest the features of claim 27. Accordingly, no combination of these references renders the claimed invention obvious.

Claims 28, 29, 31, and 32 are believed allowable for at least the reasons presented above with respect to claim 27 by virtue of their dependence upon claim 27. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 27-29, 31, and 32.

**D.** Claims 27-29, 31, 32, and 35-37 were rejected under 35 U.S.C. § 103(a) over T pholm (U.S. Patent No. 4,947,432). Applicants respectfully traverse this rejection.

Claim 27 recites a device for providing treatment of tinnitus that includes a signal filtering means configured to generate a treatment signal with peaks and troughs by spectrally modifying at least a portion of an input signal to account for the basic audiometric configuration of a person; an output for outputting the signal for treating the tinnitus; and a volume adjusting feature for requiring a patient to reset the volume of the treatment signal at the beginning of each treatment session.

In contrast, T pholm relates to a hearing aid which fails to teach the volume adjusting feature recited in claim 27. Specifically, although T pholm teaches a volume control 16 (see, Figure 6), the volume control in T pholm is a standard control. T pholm does not teach that the volume adjusting feature of the device requires a patient to reset the volume of the treatment signal at the beginning of each treatment session, as recited in claim 27. Therefore, T pholm fails to teach or suggest the features of claim 27.

Claims 28, 29, 31, 32, and 35-37 are believed allowable for at least the reasons presented above with respect to claim 27 by virtue of their dependence upon claim 27. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 27-29, 31, 32, and 35-37.

***Conclusion***

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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